

## **HUNTINGTON BEACH OVERSIGHT BOARD**

***of the Successor Agency of the former  
City of Huntington Redevelopment Agency***

### **Meeting Agenda**

**April 5, 2012**

4:30 P.M.

City Hall, 2000 Main Street, Civic Center Lower Level,  
Room B-8, Huntington Beach, CA 92648



**BOARD MEMBERS:** City of Huntington Beach appointee **Mayor Don Hansen**; County Board of Supervisors appointees **Lucy Dunn** and **Steve Bone**; Community Colleges Districts appointee **W. Andrew "Andy" Dunn**; Orange County Office of Education appointee **Carrie Delgado**; Former Huntington Beach Redevelopment Agency employee representative **Kellee Fritzal**; Special District – Orange County Sanitation District appointee **Joe Carchio**

**CALL TO ORDER:** 4:30 P.M.

**ROLL CALL:** Chair Hansen, Vice Chair L. Dunn, Bone, A. Dunn, Delgado, Fritzal and Carchio

**PLEDGE OF ALLEGIANCE:** Led by Vice Chair Lucy Dunn

**SUPPLEMENTAL COMMUNICATIONS:** Announced by Board Secretary

**PUBLIC COMMENTS:** *Limited to 3 minutes per person*

### **BUSINESS:**

#### **1. Introduction of Orange County Sanitation Appointee and Administration of the Oath of Office**

##### **Recommended Board Action:**

Introduction of Oversight Board Member appointed by the Orange County Sanitation District, Joe Carchio, followed by his Oath of Office administered by the Board Secretary.

#### **2. Oath of Office Administered to the Chair and Vice Chair**

##### **Recommended Board Action:**

The Board Secretary will administer the Chair and Vice Chair Oath of Office to Don Hansen and Lucy Dunn respectively.

**3. Approval and Adoption of the March 26, 2012 Minutes**

**Recommended Board Action:**

Approve and adopt the Oversight Board minutes of the meeting of March 26, 2012, as written and on file in the Office of the Board Clerk.

**4. Presentation by Finance Director Lori Ann Farrell Reviewing the Recognized Obligations Payment Schedule (ROPS) and Approval of the Recognized Obligations Payment Schedule (ROPS) and the Enforceable Obligation Payment Schedule (EOPS)**

Director Farrell will provide a PowerPoint Presentation which will review the ROPS line-item by line-item as requested at the March 26<sup>th</sup> meeting.

**Recommended Board Action:**

- A) Approve the Enforceable Obligation Payment Schedule (EOPS) for the period covering August 1, 2011 to June 30, 2012; and
- B) Approve the Recognized Obligation Payment Schedule (ROPS) for the period covering January 1, 2012 to June 30, 2012.

**5. Approve the Administrative Budget for the Successor Agency for Fiscal Year 2011/12**

**Recommended Board Action:**

Approve and establish a Successor Agency Administrative Budget for Fiscal Year 2011/12 totaling \$425,000 for the Merged Project Area and \$7,000 for the Southeast Coastal Project Area, for a combined total of \$432,000.

**6. Approve the Amended Oversight Board Conflict of Interest Code Resolution 2012-01 Changing the Filing Official for the Statement of Economic Interest (Form 700) from the Orange County Clerk of the Board to the City Clerk of Huntington Beach**

**Recommended Board Action:**

Re-adopt Resolution No. 2012-01 entitled: *"A Resolution of the Oversight Board to the Successor Agency to the Dissolved Huntington Beach Redevelopment Agency Adopting its Conflict of Interest Code for the Oversight Board"*

**7. Board Member Item: Item Placed on Agenda by Vice Chair Lucy Dunn – Discussion on Retention of Outside Counsel Representation for the Oversight Board**

ADJOURNMENT: Please note the cancellation of the next regularly scheduled meeting of Monday, April 9, 2012. The next special meeting is tentatively scheduled for Monday, May 14, 2012, 4:30 p.m. to be held at City Hall, 2000 Main Street, Civic Center Lower Level, Room B-8

**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

**Agenda Item #1**

***OVERSIGHT BOARD***  
***of the Successor Agency to the dissolved***  
***City of Huntington Beach Redevelopment Agency***



**There is no staff report for this agenda item**

Item #1 will consist of introductions of newly appointed Oversight Board Member Joe Carchio.

The Oversight Board Secretary will administer the oath of office and present a certificate of appointment to Board Member Carchio.

**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

**Agenda Item #2**

**OVERSIGHT BOARD**  
*of the Successor Agency to the dissolved  
City of Huntington Beach Redevelopment Agency*



**There is no staff report for this agenda item**

Item #2 will consist of the Oversight Board  
Secretary administering the oath of office to Chair  
Don Hansen, and Vice Chair Lucy Dunn

**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

## **Agenda Item #3**

**Minutes**  
**City of Huntington Beach Oversight Board of the Successor Agency**  
**of the Former City of Huntington Beach Redevelopment Agency**  
**Special Meeting**

Monday, March 26, 2012  
4:30 PM - Room B-8  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

An audio recording of this meeting  
is archived at  
[www.surfcity-hb.org/government/agendas/](http://www.surfcity-hb.org/government/agendas/)

4:30 PM - ROOM B-8

CALL TO ORDER – 4:30 PM

ROLL CALL

PRESENT: Hansen, L. Dunn (arrived at 4:39 PM), Bone, A. Dunn, Delgado,  
Fritzal

ABSENT: None (One Vacant Appointment)

PLEDGE OF ALLEGIANCE - Led by Huntington Beach Mayor Don Hansen

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda  
Distribution) - None

PUBLIC COMMENTS (3 Minute Time Limit) - None.

BUSINESS:

**Introductions and Oaths of Office**

Self Introductions of Oversight Board Members were made and the Oath of Office was  
administered by the Oversight Board Secretary, Joan L. Flynn

**Election of Oversight Board Chairperson and Vice Chair**

A motion was made by Bone, second Fritzal to elect Donald F. Hansen, Jr. to serve as Chair,  
and Lucy Dunn to serve as Vice Chair of the Oversight Board to the Successor Agency to the  
dissolved Huntington Beach Redevelopment Agency for the 2012 calendar year. The motion  
carried by the following roll call vote:

AYES: Hansen, L. Dunn, Bone, A. Dunn, Delgado, Fritzal  
NOES: None



### **Contact Person Designated for Department of Finance Inquiries**

A motion was made by L. Dunn, second Delgado to designate Lori Ann Farrell, Director of Finance, as the official who shall serve as the contact person for Department of Finance inquiries regarding Oversight Board actions.

AYES: Hansen, L. Dunn, Bone, A. Dunn, Delgado, Fritzal  
NOES: None

### **Regular Meeting Schedule Approved**

A motion was made by Bone, second A. Dunn, to establish the regular meeting schedule by minute order for the Oversight Board Meetings. Meetings will be held the second Monday of April and the Second Monday of October of each year, at 4:30 p.m. at Huntington Beach City Hall.

AYES: Hansen, L. Dunn, Bone, A. Dunn, Delgado, Fritzal  
NOES: None

### **Adopted the Board Conflict of Interest Code**

A motion was made by Delgado, second by L. Dunn to adopt Resolution No. OB-2012-01 entitled: "A Resolution of the Oversight Board to the Successor Agency to the Dissolved Huntington Beach Redevelopment Agency Adopting its Conflict of Interest Code for the Oversight Board"

AYES: Hansen, L. Dunn, Bone, A. Dunn, Delgado, Fritzal  
NOES: None

### **Adopted Board Rules of Parliamentary Procedure**

A motion was made by Bone, second A. Dunn to adopt Robert's Rules of Order as the Oversight Board's rules of parliamentary procedure.

AYES: Hansen, L. Dunn, Bone, A. Dunn, Delgado, Fritzal  
NOES: None

### **Ralph M. Brown Act Overview Presentation Made**

City Attorney Jennifer McGrath gave an oral presentation of the Brown Act and its limitations on Board business issues being discussions among Board Members outside of an open meeting. There were no questions directed to Attorney McGrath after her presentation.

### **Presentation Made on Assembly Bill 26 Requirements**

An oral presentation was made by Attorney Murray Kane giving an overview of Assembly Bill 26 as a whole and also as it outlines the duties of the Oversight Board. Board/attorney discussion centered on the administration of the budget of the Successor Agency, staff and legal counsel appointments which the Oversight Board can make, personal liability, timelines/benchmark dates which have been set by legislation, and future legal needs which might arise.

## **Presentation of Enforceable Obligation Payment Schedule (EOPS) and Recognized Obligation Payment Schedule (ROPS)**

An oral presentation of the EOPS and ROPS was made by Finance Director Lori Ann Farrell. Director Farrell discussed approval of the Successor Agency ROPS which must be made by the Oversight Board no later than April 15, 2012. Board/Finance Director discussion centered on reconciling changes to the revenue streams to the Community College Districts, EOPS/ROPS auditing, the desire to have a line-by-line overview by Director Farrell of the ROPS at the next meeting, the available finance and RDA documents for drilling down into the ROPS and the assurance that staff would make them available to the Board if requested.

Adjournment at 5:28 PM. A Special Meeting of the Oversight Board will be held on Thursday, April 5, 2012, at 4:30 p.m. in City Hall, 2000 Main Street, Civic Center Lower Level, Room B-8

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Joan L. Flynn  
Secretary of the Huntington Beach Oversight Board of  
the Successor Agency of the Former City of  
Huntington Beach, California Redevelopment Agency

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Donald F. Hansen Jr.  
Chair of the Huntington Beach Oversight Board of the  
Successor Agency of the Former City of Huntington  
Beach, California Redevelopment Agency

**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

## **Agenda Item #4**

# **AGENDA REPORT**

## **Oversight Board of the Successor Agency to the Redevelopment Agency**

**MEETING DATE:** April 5, 2012

**SUBJECT/ACTION: APPROVE THE ENFORCEABLE OBLIGATION PAYMENT  
SCHEDULE (EOPS) AND THE RECOGNIZED OBLIGATION PAYMENT  
SCHEDULE (ROPS) FOR THE HUNTINGTON BEACH SUCCESSOR AGENCY**

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### **RECOMMENDED ACTION**

A) Approve the Enforceable Obligation Payment Schedule (EOPS) for the period covering August 1, 2011 to June 30, 2012; and

B) Approve the Recognized Obligation Payment Schedule (ROPS) for the period covering January 1, 2012 to June 30, 2012.

### **BACKGROUND AND DISCUSSION**

The State of California enacted AB1X 26 which dissolved redevelopment agencies and designated Successor Agencies to "wind-down" the activities of the former redevelopment agencies under the supervision of newly created Oversight Boards.

AB1X 26 defines the amended and restated EOPS as a listing of all legally binding and enforceable agreements or contracts of the former Redevelopment Agency, including those necessary for the continued administration and operation of the Successor Agency. The original EOPS was adopted on August 15, 2011, first amended on January 31, 2012, subsequently revised on April 2, 2012, and submitted to the County Auditor-Controller, State Department of Finance and the State Controller's Office, pursuant to AB1X 26. The ROPS, which is virtually identical to the EOPS, but is for a six-month period only, was approved administratively on January 31, 2012 as well.

The Successor Agency is also asked to approve the ROPS for the Enforceable Obligations of the former Redevelopment Agency, subject to review and certification by an external auditor as to accuracy, and also subject to approval by the Oversight Board. The approved ROPS is due by April 15, 2012 at which time the Successor Agency will submit its first ROPS to the County Auditor-Controller, State Controller, and State Department of Finance for the period of January 1, 2012 to June 30, 2012. The ROPS will be prepared and submitted every six (6) months thereafter.

Pursuant to AB1X 26, The County Auditor-Controller will conduct an audit of the EOPS and ROPS by July 1, 2012, and submit its findings to the State Controller's Office by July 15, 2012.

**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

**Agenda Item #5**

# **AGENDA REPORT**

## **Oversight Board of the Successor Agency to the Redevelopment Agency**

**MEETING DATE:** April 5, 2012

**SUBJECT/ACTION: ESTABLISH AN ADMINISTRATIVE BUDGET FOR THE  
SUCCESSOR AGENCY FOR FISCAL YEAR 2011/12**

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### **RECOMMENDED ACTION**

Approve and establish a Successor Agency Administrative Budget for Fiscal Year 2011/12 totaling \$425,000 for the Merged Project Area and \$7,000 for the Southeast Coastal Project Area, for a combined total of \$432,000.

### **BACKGROUND AND DISCUSSION**

AB1X 26 allows a Successor Agency to allocate up to five percent of property tax funding remitted to the Agency for the administrative expenses associated with winding down the activities of the former Redevelopment Agency. The five percent allocation for the Successor Agency of Huntington Beach is currently estimated at \$432,000. This amount represents 50 percent, or six months worth, of the five percent allocation allowed for the period of January 1, 2012 through June 30, 2012, based on a conservative property tax estimate of \$17,280,000 for the entire year.

The five percent allocation for administrative costs is included in the Enforceable Obligations Payment Schedule (EOPS) and Recognized Obligations Payment Schedule (ROPS) of the Successor Agency under the category entitled "Enforcement of Successor Agency Monitoring and Compliance per AB1X 26."

In order for the Successor Agency to operate, budget appropriations must be approved in the following distinct funds, as required by AB 1X 26:

#### **Redevelopment Obligation Retirement Fund (RORF) Merged–Capital Projects (350)**

The Successor Agency's Administrative Budget includes the staffing and operating costs which are necessary for managing the winding down of redevelopment projects in the Merged Project Area. The appropriation of \$425,000 will support personnel costs (salaries and benefits) totaling \$330,000, for a portion of the Deputy Director of Economic Development, two Economic Development Project Managers, and an Administrative Secretary. The remaining \$95,000 will support Operating expenses for general office supplies, contractual services, and other non-personnel costs.

#### **Redevelopment Obligation Retirement Fund (RORF) Southeast – Capital Projects (351)**

This \$7,000 budget appropriation includes operating costs which are necessary for managing the winding down of redevelopment projects in the Southeast Coastal Project Area.

**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

**Agenda Item #6**

# **AGENDA REPORT**

## **Oversight Board of the Successor Agency to the Redevelopment Agency**

**MEETING DATE:** May 5, 2012

**SUBJECT/ACTION:** READOPTION OF CONFLICT OF INTEREST CODE

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### **RECOMMENDED ACTION**

Readopt Resolution No. OB 2012-01 entitled: *A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED HUNTINGTON BEACH REDEVELOPMENT AGENCY ADOPTING ITS CONFLICT OF INTEREST CODE FOR THE OVERSIGHT BOARD.*

### **BACKGROUND AND DISCUSSION**

On March 26, 2012, the Oversight Board adopted Resolution No. OB 2012-01, which adopts the FPPC model conflict of interest code by reference. The model code requires inclusion of the designated positions subject to the code and a list of disclosure categories. The resolution proposed the designated position be the Oversight Board members and that reporting be in all disclosure categories that are applicable.

The resolution identified the County Board of Supervisors as the code reviewing body for the conflict of interest code. However, the resolution has been revised to identify the City Council as the code reviewing body. Form 700 statements of economic interest (Assuming, Annual and Leaving Office Statements) that are filed pursuant to the conflict of interest code are to be filed with the City Clerk of the City of Huntington Beach.



RESOLUTON NO. 2012-01

**A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE  
DISSOLVED HUNTINGTON BEACH REDEVELOPMENT AGENCY ADOPTING ITS CONFLICT  
OF INTEREST CODE FOR THE OVERSIGHT BOARD**

WHEREAS, the Political Reform Act (Government Code Section 8100 et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes; and

The Oversight Board to the Successor Agency is required to adopt a conflict of interest code which has been amended by various resolutions; and

The Oversight Board is deemed a local entity for purposes of the Political Reform Act; and

The Fair Political Practices Commission has adopted a regulation [2 Cal. Code of Regs. 18730] which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act,

NOW, THEREFORE, the Oversight Board hereby resolves as follows:

SECTION 1. Regulation Section 18730. The terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and attached hereto as Exhibit A.

SECTION 2. Filing of Statements. The Oversight Board members are required to file Statement of Economic Interests.

SECTION 3. The code reviewing body for this conflict of interest code shall be the City Clerk. This conflict of interest code shall be promptly submitted to the City Clerk. Statements of economic interests shall be filed by Oversight Board members with the City Clerk.

SECTION 4. The Board finds and determines that the persons holding the positions set forth in Section 2 make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

SECTION 5. Disqualification. Designated officials and employees must disqualify themselves from making or participating in the making of any decisions which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any reportable interest of that employee. No designated employee shall be prevented from making or participating in the making of a decision to the extent his or her participating is legally required for the decision to be made.

PASSED AND ADOPTED by the Oversight Board at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Chair, Oversight Board

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict-of-Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict-of-interest code within the meaning of Section 87300 or the amendment of a conflict-of-interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict-of-interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict-of-interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict-of-interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict-of-interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict-of-interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.<sup>1</sup>

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict-of-interest code.<sup>2</sup>

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making

of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the

previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.



(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$420.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she

vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
  - a. The date the loan was made.

b. The date the last payment of \$100 or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect,

distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;
- (B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any

governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

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<sup>1</sup>Designated employees who are required to file statements of economic interests under any other agency's conflict-of-interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

<sup>2</sup>See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

<sup>3</sup>For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup>Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

<sup>5</sup>A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

<sup>6</sup>Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In



addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

#### HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).  
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).

11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative

5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).
28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).
29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).
31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).
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**Oversight Board of the Huntington  
Beach Successor Agency  
to the Redevelopment Agency**

**Agenda Item #7**

# **AGENDA REPORT**

## **Oversight Board of the Successor Agency to the Redevelopment Agency**

**MEETING DATE:** May 5, 2012

**SUBJECT/ACTION:** DISCUSSION OF RETENTION OF OUTSIDE COUNCIL

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This item is agenized so the Oversight Board can discuss the retention of an outside legal counsel.